

Appl. No. : **10/790,987**
Filed : **March 2, 2004**

REMARKS

Upon entry of this amendment, Claims 1-5, 8-21, 23-28 and 35 remain pending. Claims 6, 7, 22 and 29-34 have been canceled without prejudice and Applicant reserves the right to pursue these claims in a continuation application. Claims 1, 11, 12 and 20 have been amended.

Objections to the Claims

Applicant gratefully acknowledges the Examiner's statement that Claims 8, 14-19 and 21-28 are allowed and that Claims 5, 7, 9-13 and 35 would be allowable if rewritten into independent form including all of the limitations of the base claim and any intervening claims.

In the Office Action, the Examiner rejected Claims 20 and 34 under 35 U.S.C. §112, second paragraph. However, the Examiner noted that Claims 20 and 34 would be allowable if rewritten or amended to overcome the rejections 35 U.S.C. §112, second paragraph and if rewritten into independent form including all of the limitations of the base claim and any intervening claims.

The Examiner also rejected Claims 1-4 under 35 U.S.C. §102(e) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent Number 6,652,968 to Miller et al ("Miller"). By this paper, the Applicant has amended the application to highlight the subject matter that the Applicant believes is allowable over the art of record. Hence, reconsideration of the above-captioned application in light of the amendments and remarks contained herein is now respectfully requested.

Claim rejections under 35 U.S.C. §112

Claims 20 and 34 stand rejected under 35 U.S.C. §112, second paragraph, for being indefinite. In the Office Action, the Examiner stated that the recited ethylene tetrafluoroethylene (specie) in Claim 20 is one of the recited thermoplastic fluoropolymer (genus) and thus it is indefinite since it is a range within a range. The Examiner also stated that the recited polyamide (genus) and nylon (specie) is indefinite since it is a range within a range. Applicant has amended Claim 20 and canceled Claim 34 to address the Examiner's rejections under 35 U.S.C. §112, second paragraph. Accordingly, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 112, ¶2.

Appl. No. : **10/790,987**
Filed : **March 2, 2004**

Rejection of claims under 35 U.S.C. §102 or §103

In the Office Action, the Examiner further rejected Claim 1 under 35 U.S.C. §102(e) or §103(a) in view of Miller. Applicant has amended Claim 1, as discussed below. Applicant has

Miller discloses an electrically conductive material formed from a polymeric matrix **12** within which there are embedded multiple metal-coated spheres **14**. Such spheres are configured so as to develop an electrically conductive path employing minimum compression of the matrix material and ready breaking of the conductive path upon release of the compression of the matrix. These materials may be used to form pressure activated conductive sheets which are non-electrically conductive when the polymer matrix is in a relaxed state and electrically conductive within a region having an applied pressure which forces the particles in contact with one another. That is, Miller discloses a system which provides a compressively reversible high conductivity path through a polymer matrix.

However, Miller does not disclose or teach “a biologically compatible polymer composite for use in thermally related medical therapies, the composite comprising a base polymer component, an electrically conductive filler component dispersed within the base polymer, and a dispersed filler component having a thermal conductivity of less than 5 W/m-K,” as recited in amended Claim 1. Accordingly, Applicant respectfully submits that amended Claim 1 is allowable over Miller. Claims 2-5, 9-13, 20 and 35 depend from amended Claim 1 and are therefore likewise allowable over Miller, not only because these claims depend from an allowable base claim, but also because each of these claims recites a unique combination of features not taught or suggested in the cited art.

Applicant has also amended Claims 11 and 12 to update the dependency of these claims.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior

Appl. No. : **10/790,987**
Filed : **March 2, 2004**

prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

SUMMARY

Applicant respectfully submits that the claims are in condition for allowance. Furthermore, any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on that portion or that the limitation discussed is essential or critical; rather, patentability must rest on each claim taken as a whole. Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although changes to the claims have been made, no acquiescence, disclaimer or estoppel is intended or should be implied thereby; such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter.

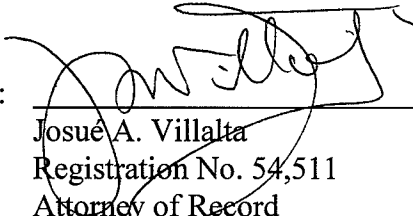
The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 9/6/07

By: 

Josué A. Villalta
Registration No. 54,511
Attorney of Record
Customer No. 20995
(951) 781-9231

AMEND

4195885_2
090607